/141/ CHAPTER IX.

673 Crimes. - Thievery. - Baranta. - The salavat and limitations - Syuyunchi.

There is no word for "crime" in the Kazakh language. Dzhaman is means evil deed. That all crimes are no other than evil deeds is, of course, only in the eyes of those injured. When the latter speak of violence (zorlyk) and torture (dzhabr) the transgressors of their interests boast of their own heroism (batyrlyk).

The word guna (sin, wrong) does not fit our concept of crime. In the epic of Guruly beloved by the Kazakhs, among other things, Avaz-khan is called gunakar because he dripped a bowl. He is obliged to shoot a certain number of ducks because of this.

The people distinguish a bad act from a sin. Evil done to the detriment of religious rituals and certain forms of incest are a sin. Sin is considered more serious than crime, but according to the concepts of the majority, murder is considered more criminal than a minor sin.

The offender who is subjected to punishment is called aybdi, aybdar. The word "transgressor, criminal" is translated most closely into Kazakh by the word ury, thief.

673 695 The view of the customary law toward crime is extremely simple. Criminal acts which have been under examination or which continue, do not exist, when there is no plaintiff, or when the plaintiff retracts his suit. Therefore in all suits without exception a reconciliation is possible and the affair can be broken off by the plaintiff. Crimes which are known about by the aksakals, biis and the entire people, but /142/ on which no plaintiff declares himself(1)

1. In other words, an injury to people without a clan, or an injury to people of a clan of small numbers.

are not punished. It is obvious, that the judgments are governed not by a feeling of justice, nor by a religious feeling, but a desire to bring the sides to agreement and avoid civil war, also in part by the danger of injuring weak clans, which might join forces against the strong ones, and finally by unwillingness to destroy the foundations of family life, the clan principle, and those few customs and rules of nomadic life (zang, adat, rasm) which have been worked out over time and under which the people have lived well.

1 [Should be "dropped" -- A]

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Folk custom not only permits but also obliges the persons who have suffered to avenge the crimes committed against them. The avenger is usually the person who has suffered, but a part or even the whole clan has a right to take part in the revenge. The entire clan considers itself obligated to avenge a case of the secret kidnapping of a girl by a Kazakh of another clan, or the driving away of a considerable number of livestock, which may belong to only one person, but one who is honored by his kinsmen. Also specific insults not only of an honored member, but of any Kazakh, which are made by a mob, call for armed defense and the resentment of the entire people.

The limit of the revenge is considered to be doing harm to the adversary on an equal level to the harm suffered from him. Then the hostile lineages or clans already take part in pacifying their members. But if the avenger does not cease to wreak damage on his adversary, he is subjected to fines of an atton or higher, and in extreme cases to corporeal punishment on the part of his kinsmen. The fines go for the use of the person suffering from superfluous revenge.

Peaceful agreements are permissable in every offense and crime. The fines in such cases (outside of court) go to the use of the person who suffered, or else, when they are considerable, they are divided among the closest kinsmen of the receiver.

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Although custom does have the concept of more /143/ serious and less serious crimes, it does not divide them into criminal and civil crimes.

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A crime which is committed with premeditated intent increases the blame. The commission of a crime with provocation, especially if it is called forth by the sufferer, lightens the blame. Circumstances which lighten the offense are: the thoughtlessness of the transgressor, or the honor and respect he enjoyed before the crime was committed. The commission of a crime in the steppe in an open place by day lessens the offense. A crime committed in a tent at night increases the offense. Poverty does not lighten the guilt. It does not excuse thievery, for example, for the clan is held responsible. A clan which has not helped a poor man, pays all claims against him three times, each time compelling him to reform, and forcing him to make promises on his oath. (1) The commission of a crime in a state of drunken-

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1. After the third time he is driven out. A poor man and a person without a clan gives up his daughter in place of money, and pays off the sum required of him from the

685 kalym he receives for her. But if he also has no daughter, he enters into the service of the plaintiff.

672 ness lightens the blame, and in the opinion of some, even frees the offender from a fine, and he is only obligated to pay for the damages.

Official persons are not punished more severely than private persons for a crime.

Crimes committed for reasons beyond the control of the person's will (illness, temporary insanity, etc.), do not bring punishment upon the persons committing them. In such cases the kinsmen are held responsible as not having watched over the activities of their sick fellow members and not having protected the sufferers from danger. Those who are insane from birth and deafmutes are not punished for crimes committed and their kinsmen are not held responsible for them. Offenders who are under age are not punished. Their parents and close relatives are held responsible for them. Husbands are responsible for the crimes of their wives, but the wives are not responsible for their husbands. The successors of deceased criminals are held responsible in property for their crimes. /144/ In general, the responsibility in property for crimes extends to the seventh degree of kinship inclusively.

685 In Makovetskii (Pt. I p. 81) we find that punishment is decreased when a theft is committed in a strange volost. Certain
672 biis of the Syr-Darya oblast disagree with this. They maintain that suits for theft should be judged with equal strictness, whether they are committed in an outside volost or in one's own, against the defenseless (for example, from children), or against the strong.(1)

1. Aleksandrov reports that the Kazakhs of the Kazalinsk uyezd steal livestock primarily from other clans and uyezds. The people are indulgent about this, considering it something which goes with youth, although they sometimes are reproachful about it in words.

673 Careless actions which result in damage are judged as crimes. Wealthy persons compensate for the damage with property ; or for harm caused to the health they pay wergeld in the amount established by custom. These cases are called angsyzdan, and the people regard them more indulgently than they do cases committed for revenge or for other aims.

672 685 The person under whose instigation and advice the theft was made, pays a fine, after which the thief returns the object stolen without a fine (Perovsk uyezd). According to bii Sultan, instigation and calumny is a sin which God never forgives (kudanyng kechpes gunasy). There are now many instigators (azgrushi) and tell-tales (suztasushi). The biis do not believe them. In confirming the proverb entered in Makovetskii: "He who ordered the beating is not punished, he who did the beating is punished" (ur degenge zor kel'mes, urganga zor keler) bii Sultan Kanaev says that the instigator escapes punishment because he will not acknowledge his instigation, and that even though the instigation can be proved, in general it is better to impose the punishment on the actual criminal. E. A. Aleksandrov also reports that the instigators and those assisting the crime are not recognized as guilty by custom.

Those who conceal crimes and transgressors, or objects obtained by crime are called to responsibility equally with the criminals themselves. The receivers of persons under suspicion are called to account like thieves. Unconscious concealment is not persecuted. Not giving up a thief, even though he be one's own son or father, is considered being his accomplice. The person who saw the crime but did not speak of it in the inquiry is also considered an accomplice (Perovsk uyezd). According to Kunakbai of the Auliye-Ata uyezd, the person who conceals property pays nothing, and if he was sentenced to pay an atton, for example, he can demand its return from the thieves. The person who conceals /146/ the thief himself does not pay. "A reprimand of him would be useless," added the bii.

Connivers and the other persons implicated are not subjected to any penalty, but they do not escape the inquiry and a reprimand (Perovsk uyezd). They are called kumekshi. The kumekshi is not a thief, but is not clean of thievery (kumekshi ury imes urydan kuru imes) as bii Sultan Kanaev expressed it.

673 The number of acts which are not considered reprehensible, or which are not prosecuted by customary law even though reprehensible, is considerable among the Kazakhs. (1)

1. In Makovetskii, Pt. I, p. 60 it says: The comparatively low level of culture of the Kazakhs not only explains their general view of criminal activity, but also their attitude to many acts which are prosecuted among civilized societies, and which are considered fully lawful among the Kazakhs.

Without even speaking of the many police infringements of the law, of which the Kazakhs have no concept, it is impossible not to mention here their attitudes to such acts as abortion, putting a newborn child to death, forsaking a man in danger, swindling and taking the law into their own hands. These are regarded either as entirely unreprehensible acts or else, in the case of swindling, as acts serving as the basis for civil suits. Taking the law into their own hands in the form of baranta even constitutes a kind of heroic deed.

Among the acts which are not considered reprehensible are 1) Abuse and every sort of verbal insult. 2) light blows;(2) 3) theft among

2. The sufferer of the blows considers himself satisfied if he can boast that he hit his adversary, even if only once.

kinsmen; 4) immoral acts, committed with the consent of both sides; 5) taking the law into their own hands; 6) abuse of power; 7) all crimes, committed against the defenseless. 8) all crimes, committed against members of other tribes. (3)

3. When asked about the proverb: "the property of the unfaithful is allowed (to be taken), their daughters are allowed (to be made concubines), and their blood is allowed (to be spilled)" (din sizding maly alal, kyzy alal, kany alal), bii Sultan Kanaev began to explain the word unfaithful - as someone who does not pray, does not fast, etc. - but then added: "if the padishah gives the order to make war (padsha buyursa chaubal dib), but it is not permitted in a stealing manner (urlyk pen alal imes)."

We turn now to the listing of several misdemeanors which are recognized at the present time as deserving of reprimand, reproof and even of a fine, but for which there are rarely suits in court, since the plaintiff usually has great difficulty in getting a fine to be imposed./147/ (Table follows).

4:Grodekov--125 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai Auliye Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov	Bii Sazabai Kurama uyezd
Instigation to fighting and murder (sukan-chilik).	Rebuke (1) of the aksakal and forcing to repent.		Not punished	Formerly the whip. (durra). Now a fine of 3 rubles.

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1. The reason why Sultan Daulet Bushaev imposes a rebuke, etc., and the biis of the Auliye-Ata uyezd do not, is that the former represents the patriarchal point of view, and the latter the present practice. In the words of Kunakbai, nowadays a rebuke, etc., does not lead to anything. (Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai Auliye Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov	Bii Kurama uyezd
Repetition of the same misdemeanor.	Corporal punishment and shaming.		Reprimand of the bii.	Forfeiture of trust, denouncement as a mutakhan (shameless one) and banishment.
Noise and disturbance of nocturnal peace.	Rebuke or corporeal punishment.		Not punished.	It is called tentek, dzhindy. It is not punished.
False alarm, crying attan (to horse!).	Compensation for damages incurred.		Compensation for damages incurred.	Called maskharabaz. Scolded but not punished.
The same, if a woman miscarries a child from fright. /148/	From 3 to 4 camels to one-half wergeld.		Not punished. But if woman is influential 100 rubles fine.	The payment of the appropriate wergeld.
Fast riding in village, around village, or approaching tent at a gallop.	Rebuke.		Not punished.	A scolding. The offender is called akhmak.

(Table continues).

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4:Grodekov--126 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

4:Grodekov--127 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Digging holes without warning signs, or destroying these.	Rebuke and medical treatment of those hurt.		Not punished.	Warning that if someone is hurt, the digger will pay.
Slander, false denunciation. (Sukhanchilik	Forfeiture of trust (zhenimsizdik). sizdik).	Not punished.	Not punished.	Formerly a whipping. (durra). Now a 3 ruble fine. ruble fine.
Not giving help when seeing theft or brigandage.	Reprimand		Not punished.	Not punished.
Not reporting the commission of a crime.		Not punished.		

(Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Not giving help in danger, as a result of which a person dies.		Not punished	Not punished.	They suspect murder and impose an oath.
Not helping one's own in a time of general uproar or /149/ harming one's own.	2 or 3 nines.			He is considered a traitor (ala); In time of upheaval he is killed /149/ (chaub kitedi).
Malicious luring into danger, resulting in death, e.g., from beasts.		Can demand a partial wergeld.		Full wergeld.

(Table continues).

4:Grodekov--128 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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4:Grodekov--129 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai Kurama uyezd.
Not giving kunakasy.		Not punished.	Not punished.	In case of death, wergeld is paid for a person, and the value for a horse.
Affront and insult of kinsmen.	Corporeal punishment, depending on the desire of the kinsman.	Affronts and light blows administered to kinsmen, and strangers, even tiuri, is not punished.		They are pacified and warned against repetition.
False witness.	Forfeiture of trust and the remuneration for damages.	Not punished.	Not punished.	A fine of 3 rubles.

(Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai Kurama uyezd.
False oath.	Punishment in future life and remuneration of damages.	Not punished.	Not punished.	Punishment in future life. Same report from Kazalinsk uyezd. Bii Sultan, of the Chimkent uyezd reports that the guilty party answers in /150/ the future life. He is called muttekh. They spit on him at the end of the oath ritual. His words are no longer believed (suzi bi igtibar) and he is not chosen to be one of the oath takers.
Cheating and deceit of any kind.		In the opinion of Kunakbai and many others, it is not punished. They only repay damages.		

(Table continues).

4: Grodekov--130 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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4:Grodekov--131 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai Kurama uyezd.
Unjust judgment of an affair by a bii.	Not punished.		Not punished.	
The acceptance of gifts by a bii who has justly (tene) decided a lawsuit.	Not punished.			
The extortion of gifts by a bii.		He loses respect (beti kara).		
/151/ A fight in which a horse is wounded.	Atbastagan toguz, or, according to Mikebai, of the Perovsk uyezd, atton, but if the horse dies, the value is paid.			If the horse dies of the wounds, it is paid for, otherwise not.

(Table continues).

Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Unjust blows (1)	Atton.	Not punished.	Not punished.	A fine of 3 rubles.

1. Among the Kirgiz no suit is entered for abuse and blows between equals. For abuse of an official person, the bii makes a reprimand and sentences a beating, while for blows borne by a superior, he requires sheep to be slaughtered, a coat to be brought and peace to be made (el kyldyrady). For a wound to an equal, the bii requires a sheep to be slaughtered, a coat to be brought and peace to be made. For a wound to a thief (uruny bashiny yarsa) no suit is brought (reported by bii Daniyar).

Blows from which death resulted.	Full wergeld	In the opinion of many others, full wergeld. (In practice it is not observed, according to reports from the Perovsk and Auliye-Ata uyezds.)	
Blows suffered by a strange woman, resulting in miscarriage.			According to Torgai, wergeld is immediately (tokhtausiz) required for miscarriage without an oath as to whether it took place with or without blows. (Table continues).

4:Grodekov--132 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

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Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Blows administered to a husband /152/ or another, because of which a which a woman miscarries.				According to Torgai, if the /152/ guilty party does not present the oath of two persons that the miscarriage was the result not of fright but of something else, he must pay wergeld according to the miscarriage. The choice of the side which must swear can also be given to the plaintiff.
Threat of murder.		Not punished, in the opinion of many. According to bii Sultan, an admonition is made: Stop, leave these ways (tasta, bu filingnan kait)!		A fine of 25 rubles.

(Table continues).

4:Grodekov--133 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

4:Grodekov--134 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

Misdemeanors

	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Petrovsk uyezd.	Bii Kunakbai, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Attempt to murder.	Three nines (tyuya-at-siir-bastagan toguz).	According to bii Sultan, "ayb for the knife", i. e., an attempt to murder (pshak ayby) costs 1-2 nines.		
/153/ Attempt at theft or brigandage.	Atton	In the opinion of Uymaut and others of the Chimkent uyezd, it is not punished. Sazabai agrees. According to Umurbek and others, there is pardon or a fine no greater than an atton.		
Fire resulting from carelessness.	Payment of damages.			Payment of damages (tuleuin beredi).
Setting a fire maliciously.	Payment of damages, with addition of fine or prison.			Payment of damages with fine of 50 rubles.

(Table continues).

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Misdemeanors	Opinions concerning punishments to be imposed for these acts			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunakbai Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Bii Sazabai, Kurama uyezd.
Contributing to suicide.		Not punished. But can demand partial wergeld.	Not punished.	Full wergeld.

If a violation of the rules of morality is punished, it is punished primarily by domestic measures, as is evident from the following list.

Misdemeanors	Punishments and fines imposed for them		
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunkabai & Umur-bek, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Torgai Dauletkulov.
Lewd behavior	Rebuke of aksakal, admonition (taufik) and forced repentance (tauba).		

(Table continues).

4:Grodekov--135 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

Misdemeanors	Punishments and fines imposed for them			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunkabai & Umurbek, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Torgai.
/154/ Turning this behavior into a profession.	Order to husband or relatives for corporeal punishment and supervision.			
Adultery with a married woman, proven as only one visit of the lover.	Atton.	Not punished.	Not punished.	Formerly 1 nine (1)

1. Torgai says that he posed a question to the biis (Umurbek and others) of the Auliye-Ata uyezd: "You know better than I, tell me: khatynyng amining ayby bar ma?" They answered that no fine is imposed for adultery. He answered: "You have eaten dirt! In earlier times they imposed one nine."

Adultery discovered in flagranti.	One nine.	Up to 1 nine	20-30 rubles.	
The same with a fight resulting in miscarriage.	Tyuya bastagan nine.		50-100 rubles. for miscarriage.	(Table continues).

4:Grodekov--136 E-5 (ca 1885) 1889 RQ2 Kazak RQ2
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Misdemeanors	Punishments and fines imposed for them			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunkabai & Umurbek, Auliy-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Torgai.
The same with a girl.	3 nines.	Kunakbai: the corruption of a girl with her consent even though she is betrothed, and regardless of age, is not punished.	There is binding, beating and 20-30 rubles are exacted.	From 1 to 3 nines. Formerly 3 nines.
Note. If the girl was betrothed the fine goes to the benefit of the groom. If the groom /155/ renounces the bride, the fine goes to her father, who gives the groom another bride. If the girl was not betrothed, the betrothal of the guilty man to her relieves him of the fine.				
The rape of a woman in general depending on the circumstances of the case.	From 2 attons to atbastagan toguz.	From 1 atton to 1 nine.	From 5-30 rubles	If she is a girl, he must marry her.

(Table continues).

4:Grodekov--197 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

4:Grodekov--138 E-5 (ca 1885) 1889 RQ2 Kazak RQ2

Misdemeanors	Punishments and fines imposed for them			
	Sultan Daulet Bushaev, Perovsk uyezd.	Bii Kunkabai & Umurbek, Auliye-Ata uyezd.	The Kirgiz bii Kurpetai Dauletkulov.	Torgai.
Incest	Corporeal punishment and banishment from the village, after a public reprimand.		Death from the hands of all the people. No case had ever taken place.	
The same, by force.	The same, with humiliation.			
A sin of sodomy.	From 3-5 camels.		Not punished.	A coat and asking for forgiveness, with the slaughter of an animal.
/156/ Copulation with livestock.	Corporeal punishment and humiliation.	Not punished.	There are no male mules among the Kirgiz.	Not punished. No case of it had occurred.
Procuring.	Atton.		Not punished.	
Pimping of a mullah.	Forfeiture of clothes, all property, and banishment from the village.		The guilty man flees, abandoning everything.	

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685 payment of the losses can be required. The payment for a new receipt and for court costs can be required for assistance in changing a receipt, after which the debtor is freed from the obligations of the original receipt (the books of the biis in the Perovsk uyezd). The Kirgiz bii Daniyar finds that there is no suit for the making out of a false receipt and affixing a strange seal to it.

e. There is no fine for the substitution of something else for what was taken for safekeeping. However the biis hold to the proverb: Whoever behaves treacherously with objects given him for safekeeping will suffer punishment in the future (amanatka khyanat kylgan akhyret dzhaz tartady).

f. The sale of an object of lower quality as something of higher type constitutes deceit, and the bargain is broken off. /159/ g. If one and the same thing is sold to two different persons, it is adjudged to belong to the one who paid the money for it first and carried out the ritual of shaking hands, with the words: bereke tap ("to good fortune"). The money is returned to the other without a fine.

h. The middle man is not held responsible for arranging a sale of something he knows has been stolen, if he can produce the seller. But if he cannot find the seller he is held responsible before the person who suffered the loss, and pays a fine, for the middle man is considered a guarantor, kefil' (bii Abdrakhman, of the Auliye-Ata uyezd, and Torgai).

i. The conscious buyer of stolen goods must also present the seller, as was stated above.

E. A. Aleksandrov reports from the Kazalinsk uyezd that "a small deceit in trading is investigated. In case deceit is discovered, the dealer is obligated to return the payment received for the article. But if he does not desire to make the return voluntarily, and refuses to take the affair to court, the injured party has a right to take the payment by baranta. A complaint from the sufferer from baranta is not accepted or, when it is examined, it leads to the exaction of a fine from the person who caused the baranta. "

Bii Sultan Kanaev cannot remember from his practise any suits concerning acceptance of things for safekeeping. According to him, only losses due to deceit should be required to be paid.

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•693 There are no special words among the Kazakhs to express the

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concepts of stealing and brigandage. Urlyk is stealing or brigandage; ury is thief, robber and criminal in general, urlamak is to steal, tartyb, almak is to take away, to ransack. Theft accompanied by violence is not judged more severly than simple theft.

Among the Kirgiz, there is more severe prosecution of the theft of a considerable number of objects, for clear robbery and for taking away by force (bii Daniyar).

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Robbery accompanied by violence occurs in the following forms among the Kazakhs:

1) The plundering of every kind of traveler, such as Sart merchants and travelers. It usually opens with /160/ a request for nasvay, tobacco, or with a double meaning, for that "which is in the belt."

2) Driving horses out of the herd at night.

3) The latest kind of robbery is asking for a ticket, the presentation of which is ignored, the declaration by the robber that he intends to rob, and frightening by various threats and charges, with the request to give this or that. The aim of these circumlocutions is to discover whether the traveler has any chances of defense or not. However, robbery by force is rarely accompanied by murder.

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According to the reports of the biis Sultan and Khalmakhammed it is permissible to rob or to kidnap and not to return the objects gained in the cases below:

1) The father and grandfather can rob from a son and grandson as often as desired, and as much property as desired. It is even possible to sell everything a son has. It is permissible also to sell the son into bondage, i.e., to surrender him into service for a year, and to spend the money received (balanyng uzin kyzmetke satyb zhese kham khallal').

2) A son can rob from his grandfather and father up to three times. The fourth time a fine is imposed.

3) A kinsman can rob another kinsman to the third degree of kinship (first cousins).

4) The dzhien asks his uncles (older and younger brothers of his father) for a gift, and if he does not receive it, he can rob them up to three times. If he steals too much, they take away the superfluous part from him, leaving him 1 or 2 heads of livestock. If he steals a horse which is a racer (bayge at) the uncle can demand its return in exchange for something else. If he steals for the fourth time, they tell him: "You have forfeited the rights of a nephew" (dzhien dikten ketting).

692 session of biis.

In every volost from 4 to 8 biis were elected both for the judgment of criminal cases, subject to the people's court (1) and

• 673 [698] 1. Murder and baranta were considered criminal cases, subject to the people's court.

The Kazakhs were judged by a military court for treason, inciting their fellow tribesmen to oppose the government, attacking the mail and military transports, the murder of Christians and other persons who had expressed the desire to become Christians, and for the murder of officials.

The Kazakhs were tried according to the common criminal laws of the empire for brigandage, stealing, attacking merchant caravans, flight into foreign domains, setting fire, manifest opposition to authorities, the manufacture and transmission of counterfeit money and the stealing of state property.

for every sort of litigation and suit.

693 The biis were elected by the people for three years.

Anyone could be chosen as a bii who enjoyed the respect and trust of the people, had not been blamed by a court, was not under investigation, and was not less than 25 years old.

The elected biis were confirmed by the military governor. They did not receive a salary, but they had the right to receive /177/ a special fee /biilyk/ for judging cases, which was established by folk customs. The fine for property suits could not be determined as higher than one-tenth of the value of the suit. For the judgment of murder cases of personal injuries, the biilyk was designated according to the customs.

692 The opposing sides in a litigation could, by mutual consent, turn to one or several biis for the examination of their case. The agreement of the litigating sides on the choice of a bii or biis for the judgment of their case had to be entered in the book established for the recording of judgments. In such a case, the judgment of the biis, as having the character of arbitration (1) was final in any amount.

1. In ancient times all courts were courts of arbitration among the Kazakhs, i. e., they were chosen each time by both sides. The plaintiff and the defendant appeared before the bii chosen by them, and if the bii was far away they

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sessions of biis for the judgment of cases up to 1000 rubles, and cases of murders and baranta, also establishing appeals of decisions according to instances. But the mass of small cases remained under the jurisdiction of individual biis and even volost sessions, consisting of a small number of these same biis, corrupted and finding themselves under the influence of rich kinsmen and volost administrators, could not act better than the trials by one person of the biis.

As a result, the trial of the biis became a corrupt trial, unpopular and subject to native officials. The unsatisfactory character of the people's court according to the law of 1867 for the examinations of the complaints of the people brought about the interference /201/ of the Russian uyezd administration in the cases of the bii's courts. The law subjected cases under 100 rubles to the jurisdiction of a bii chosen by the plaintiff from the volost of the defendant. But by using the right of challenging the biis, the defendants were constantly evading trial, and the plaintiff, in order to obtain satisfaction, was obliged to turn to the collaboration of the volost administrator, who could summon both the defendant and the biis. For the latter often failed to pay attention to the petition of the plaintiff for examination, and found justification in their own challenge by the defendant and in his disobedience. In many places there was, in practice, such an order of taking cases into the court of the biis, that not a single case was examined by the biis unless a complaint was taken directly to the uyezd chief or to his assistant, and unless a special order was taken to the volost administrator each time for the examination of the case by the biis. Thus the biis fell into direct dependance upon the volost administrators and the people's court became a field for the arbitrariness of the local authorities.

The Kazakhs, in the words of Sultan Babagaliev, adapted to the court of the biis the proverb: "If an owl is hit with a stone, the owl is killed; if a stone is hit with an owl, the owl is also killed" (tash bilyan yapalakni ursa, yapalak uledi; yapalak bilyan tashni ursa, yapalak uledi).

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The law of the 12 June, 1886, on the administration of the Turkestan region, preserved their people's court for the Kazakhs.

Submitted to the jurisdiction of the people's court is: 1) all cases concerning crimes and misdemeanors committed by natives, with the exception of the following crimes: those against the Christian faith, against the state, against the order of the administration, the state or public service, against the decree of state and land duties,

692 against the property and income of the treasury, against the public
673 welfare and well-being, the violation of quarantine regulations, the violation of decrees against epidemic and contagious diseases, the violation of rules established in case of livestock losses, against the common peace and order (the forming of /202/ gangs with malicious intent, and the receiving of persons under suspicion, false denunciations and false evidence in cases, judged according to the laws of the empire, the concealing of fugitives, and the spoiling of telegraphs and roads), against the laws of estates; against life, health, freedom and honor (murder, infliction of wounds, and fights, resulting in death, rape, unlawful detainment and confinement) against property (the violent seizure of foreign immovable property and the destruction of border landmarks and signs, setting fires and in general intentional destruction of foreign property, robbery and plundering, the stealing of treasury property and the falsification of Russian documents). 2) Cases of crimes and misdemeanors, which although not included in those mentioned above, were committed by natives against Russians, and likewise within the borders of Russian settlements. Such cases are under the jurisdiction of court establishments on a general basis.

692 Civil disputes and suits between natives and persons who do not belong to the native population, likewise cases between natives of various nationalities who have separate people's courts, and also suits based on acts carried out with the participation of Russian authorities, are carried out by justices of the peace and regional courts on a general basis.

Jurisdictional disputes concerning cases which take place between people's courts and examining magistrates, justices of the peace and also their assistants are settled finally by the regional court.

Persons not belonging to the native population who are engaged in lawsuits with natives, and likewise natives who have different people's courts in cases among themselves, can if they wish, turn to a people's court. In such a case the plaintiff forfeits the right to open suit on the same case with a justice of the peace or in a regional court.

The jurisdiction of civil cases is determined by the place of abode of the defendant, and the jurisdiction of criminal cases by the place the crime was committed. A suit which relates to several defendants is declared in the place of abode of one of them, at the choice of the plaintiff.

/203/ Cases subject to the jurisdiction of the people's court